

SENATE BILL 3151  
By Atchley

AN ACT to amend Tennessee Code Annotated, Section 13-28-103(4)(B); Section 67-6-667 and Title 71, relative to economic assistance to families by modification of the aid to families with dependent children, child support and food stamp programs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 3, Part 1, is amended by deleting Sections 71-3-101 through 71-3-127 and Section 71-3-130 in their entireties and by substituting instead Sections 2 through 17 as a new part.

SECTION 2. This part may be cited as the "Families First Act of 1996".

SECTION 3. The temporary assistance provided by the department and the state of Tennessee pursuant to this part shall not be an entitlement to any applicant or recipient, except as otherwise provided by federal law. The continuation of this program is subject to and limited by, the availability of federal funds which may be made available to the state of Tennessee by the Congress of the United States and the federal department of health and human services, or its successor agency.

SECTION 4. As used in this part, unless the context otherwise requires:

(1) "Assistance" means, unless otherwise required by the context, "temporary assistance".

(2) "Caretaker relative" means the father, mother, grandfather or grandmother of any degree, brother or sister of the whole or half-blood, stepfather, stepmother, stepbrother, stepsister, aunt or uncle of any degree, first cousin, nephew or niece, the relatives by adoption within the previously named classes of persons, and the biological relatives within the previous

degrees of relationship, and the legal spouses of persons within the previously named classes of persons even if the marriage has been terminated by death or divorce, with whom a child is living;

(3) "Child" or "children" means:

(A) A person or persons under eighteen (18) years of age; or,

(B) A person who has not attained nineteen (19) years of age and who is a full-time student in a secondary school or the equivalent and is who is expected to graduate by the 19th birthday;

(4) "Department" means the department of human services;

(5) "Dependent child" means, except as otherwise stated herein, a child living with a caretaker relative if the child is deprived of parental support due to death of a parent, continued absence of a parent from the home, physical or mental incapacity of a parent, or unemployment or underemployment of either or both parents and if the child's legally responsible relatives are not able to provide adequate care and support of such child without temporary assistance.

(6) "Family" means the eligible unit of children and parent(s) or caretaker relative(s) residing in a common residence.

(7) "Temporary assistance" means the program to provide economic support and other support services to families which is provided by the state of Tennessee utilizing funds made available by the Congress of the United States and the secretary of the federal department of health and human services to the state of Tennessee pursuant to the Social Security Act, and any state funds which may be appropriated by the general assembly designated to support the temporary assistance program. If at any time, federal funds are not available to provide the continuation of the temporary assistance program, the state shall not be obligated to continue the program by using only state funds and no entitlement to assistance under this program pursuant this part shall be created by the state's participation in the program.

SECTION 5. (a)(1) A family may be eligible for temporary assistance pursuant to this part:

(A) If a dependent child resides in this state with a caretaker relative in that family, or if an individual who applies for temporary assistance is pregnant, or as otherwise defined by the department;

(B) If the family meets income standards based upon the standard of need for a family based upon its size and income and based upon resource limits as determined by the department in its rules;

(C) The family members are engaged in full or part-time employment or other training or other work preparation activities as set forth in subsection (g) , except as exempted by rule of the department;

(D) The caretaker has agreed to and complies with a personal responsibility plan as developed by the department in accordance with subsection (h); and

(E) The family or individual of the family is otherwise eligible pursuant to federal or state laws or regulations.

(b)(1) A caretaker who successfully completes the personal responsibility plan or who becomes ineligible because the caretaker has reached the maximum eligibility period, and who is working at such time, shall be eligible for transitional child care assistance on a sliding scale based upon the family's income.

(2) A caretaker who successfully completes the personal responsibility plan or who becomes ineligible because the caretaker has reached the maximum eligibility period shall be eligible for transitional TennCare/Medicaid whether or not the caretaker is working.

(3) Food stamp assistance shall continue to be available to these families as prescribed by federal or state law or regulations.

(c)(1) Persons who are recipients of temporary assistance and who marry while receiving such assistance shall not be subject to the deprivation standards for dependent children, and the department will apply an income standard which recognizes this circumstance.

(2) If parents of a child who lives in the eligible unit marry while the child and at least one parent are receiving assistance, and while the parents continue to reside together with the child

in the home, the parent who may owe a child support arrearage for that child shall be forgiven the state portion of that arrearage as long as those parents remain married. The parent owing the child support arrearage shall remain liable only the federal portion of the child support arrearage, unless the department is able to obtain a federal waiver to forgive the federal portion. The department is authorized to seek and to implement such a waiver. If the parent owing a child support arrearage leaves the residence of the child, at any time prior to termination of that parent's child support obligation under state law, the parent owing the child support arrearage shall be liable for the entire state and federal child support arrearage amount.

(d)(1) Except as provided in this act or as otherwise required by federal law, no family shall receive assistance if that family includes an adult who has received assistance under this part for a total of sixty (60) months, whether or not consecutive; provided, however, that no single continuous period of eligibility shall extend beyond eighteen (18) months, unless an exception for up to six (6) months is granted due to county economic hardship. Economic hardship is considered to exist in any county where the unadjusted unemployment rate for the county of residence, for the month most recently published by the department of employment security, is more than twice the unadjusted unemployment rate for the state as a whole; provided, however the family receiving assistance must otherwise be in compliance with its personal responsibility plan.

(2) As to a child who was not the head of a household or who was not married to the head of a household, the sixty (60) month time limit stated in subdivision (1) shall not begin to run during the time that the child was a member of a family receiving assistance under this part.

(3)(A) In the case of a minor parent, the sixty (60) month period shall not begin to run until that minor parent attains the age of eighteen (18) and has graduated from high school, or until the class of which the minor parent is a member, when the minor parent attains the age of eighteen (18), graduates from high school.

(B) Such person shall also be exempt from the work requirements of subsection (g) during the periods stated in subdivision (3)(A).

(4) The sixty (60) month period shall not apply to a person who is functionally illiterate as defined by rule of the department and as determined by a test certified by the department of education for adult basic education purposes.

(5) A person may be eligible for temporary assistance beyond the sixty (60) month period if that person is over the age of sixty (60) or if that person is caring for a disabled child relative or disabled adult relative based upon criteria set forth in the department's rules, or as otherwise required by federal law.

(e) No payment of assistance shall be made to an individual who has not attained the age of eighteen (18), who is not married, who has his or her child who is at least sixteen (16) weeks of age in his or her care, and who has not successfully completed a high school education or its equivalent unless the individual participates in:

(A) Educational activities directed toward the attainment of a high school diploma or its equivalent; or

(B) An alternative educational or training program that has been approved by the department.

(f)(1) Except as provided in subdivision (3), if a person applying for assistance under this chapter is under eighteen (18) years of age, has never married, and is either pregnant or has the applicant's child in his or her care, the applicant is not eligible for assistance if:

(A) The applicant and the applicant's child or children do not live in a place maintained by the applicant's parent, legal guardian, or other adult relative as such person's own home or other suitable living arrangement as otherwise defined by rule of the department; and

(B) The department determines after investigation that the physical or emotional health or safety of the person applying for assistance or the dependent child or children would not be jeopardized if the applicant and the dependent child or children were required to live in one of the situations described in subdivision (f)(1)(A).

(2) Subdivision (f)(1) does not apply if:

(A) The person applying for assistance has no parent, legal guardian or other adult relative whose whereabouts are known;

(B) No parent, legal guardian or other adult relative of the person applying for assistance allows the person to live in the home of that parent, legal guardian or other adult relative as determined by the department's verification; or

(C) The department otherwise determines that there is good cause not to apply subdivision (f)(1).

(g) All family members who are not otherwise exempt pursuant to rule of the department and who receive temporary assistance pursuant to this part shall engage in full or part-time employment, other training or other work preparation activities consisting of:

(1) Employment;

(2) Work experience activities;

(3) On-the-job training;

(4) Job search and job readiness assistance;

(5) Community service programs;

(6) Vocational educational training not to exceed twelve (12) months with respect to any individual;

(7) Job skills training related directly to employment;

(8) Education directly related to employment, in the case of a recipient who is nineteen (19) years of age or younger and has not received a high school diploma or certificate of high school equivalency; or

(9) Satisfactory attendance at secondary school, in the case of a recipient who:

(A) Has not completed secondary school; and

(B) Is a dependent child, or a head of a household who is nineteen (19) years of age or younger.

(h)(1) As a condition of eligibility an applicant for or recipient of temporary assistance must agree to a personal responsibility plan developed by the department.

(2)(A) The personal responsibility plan shall require participation in personal responsibility activities including, but not limited to, full-time or part-time employment, other training or other work preparation activities as set forth in subsection (g).

(B) The personal responsibility agreement shall also require, but shall not be limited to, as a condition of eligibility or continued eligibility for temporary assistance, that the parent or other caretaker relative, regardless of age or disabling status enter a plan which requires:

(i) That the children in the family attend school or, where available, kindergarten;

(ii) That the children in the family receive immunizations and health checks; and

(iii) That the parent or caretaker relative cooperate in the establishment and enforcement of child support, including, but not limited to, the naming of the father of a child for purposes of paternity establishment unless good cause not to cooperate exists, as defined by the department; or

(iv) Such other responsibilities as shall be set forth in the department's rules.

(C) The plan may also require that the parents or caretaker relative attend life skills training.

(D)(i) Unless exempt, refusal or failure to engage in full-time or part-time employment, other training or other work preparation activities as set forth in subsection (g), or the failure to cooperate in the establishment or enforcement of child support without good cause, shall result in denial of eligibility for, or termination of, temporary assistance for the entire family unit.

(ii) Failure to comply with the personal responsibility plan as required under subdivision (2)(B)(i) and (ii) shall result in a percentage reduction with regard to the temporary assistance payment in the amount of twenty per cent (20%) until such time as compliance occurs.

(iii) Failure to comply with the personal responsibility plan under subdivision (2)(B)(iv) shall result in a total or partial sanction with regard to the temporary assistance payment as defined by rule of the department.

(3) The work requirements shall be excused for:

(A) Parents or caretaker relatives who prove to the satisfaction of the department the existence of their temporary incapacity or permanent disability;

(B) Parents or caretakers who prove to the satisfaction of the department that they must provide personal care for a disabled relative child or adult relative living in the home or;

(C) For a woman for four (4) months after the birth of a child;

(D) For persons who are over sixty (60) years of age; or

(E) For such other exemptions as may be required by federal law.

(i) The maximum payment standard for a family shall not be increased for a child who is born to a caretaker of a temporary assistance unit who, as determined by the statement of a physician, becomes pregnant while receiving temporary assistance, or as otherwise defined by regulation of the department.

(j) No payment of temporary assistance shall be made to an individual for ten (10) years from the date of conviction, guilty plea or plea of nolo contendere of that individual in a federal or state court for having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from two (2) or more states under the temporary assistance program under this part, TennCare or any program of medical services under title XIX of the Social Security Act, the Food Stamp Act of 1977, or under the supplemental security income program under title XVI of the Social Security Act.

(k) No payment of assistance shall be made to an individual who is fleeing to avoid prosecution or custody or confinement after conviction under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which an individual flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state, or who is violating a condition of probation or parole imposed by federal or state law.

(l) No payment of assistance pursuant to this part shall be made for an illegal alien in a family.



SECTION 6. (a) In determining eligibility under Section 5 for, and amounts of, grants under the temporary assistance program, the department of human services shall adopt rules and regulations establishing a standard of need which reflects the true cost of the following, less any discounts for other sources of assistance provided for in subsection (b) hereof:

- (1) Safe, healthful housing;
- (2) Minimum clothing for health and decency;
- (3) A low-cost adequate food budget as recommended by the USDA Thrifty Food Plan;
- (4) An allowance for essential medical care; and
- (5) Other necessary items including, but not limited to, transportation, personal care and educational expenses.

(b) The department shall deduct from the costs determined in subsection (a) the value of the following:

- (1) Housing assistance programs;
  - (2) Food coupons or food stamps or food assistance under title 71, chapter 5, part 3;
- and
- (3) TennCare or Medicaid.

(c) The commissioner shall report to the governor and the general assembly no later than October 1 of each year regarding projected annual adjustments to the standard of need necessitated by changes in the costs and benefits described in subsections (a) and (b). The report of the commissioner shall also contain:

- (1) An estimate of the percentage of the adjusted standard of need which could be paid if the appropriation for the next fiscal year were to remain constant;
- (2) An estimate of the cost of paying the same percentage of the standard of need considering necessary adjustments in such standard of need;
- (3) The recommendation of the commissioner as to the percentage of the adjusted standard of need that should be paid in the next fiscal year and the cost thereof; and

(4) Any other relevant information which would be helpful to the governor and the general assembly in making decisions concerning the temporary assistance program.

(d) Any amount of earned income in an aid to the blind case, as provided in § 71-4-105 or as is provided in title 7 of the Economic Opportunity Act of 1964, and any other income required by federal statutes to be exempt in determining need, shall be exempt and shall not be considered as a resource in determining the amount of assistance to be paid to any person under this part.

(e)(1) The standard of need for each fiscal year shall be established by public necessity rule or regulation on July 1 of each year in accordance with subsections (a) and (b).

Notwithstanding any provision of this section or other law to the contrary, the standard of need for each assistance group size, which standard was established and funded at the benchmark level of five hundred nineteen dollars (\$519) for an assistance group of four (4) persons for fiscal year 1991-1992, shall, during fiscal year 1992-1993, remain at the same benchmark level and shall remain at the same levels established for other assistance group sizes, which were established and funded during fiscal year 1991-1992; provided, that nothing in this section shall be construed as prohibiting the department of human services from changing the standard of need or the grant payment level if such course of action is deemed to be in the best interests of the citizens of the state of Tennessee.

(f)(1) The department of human services shall conduct a temporary assistance client characteristics study at least once every three (3) years. The study shall be conducted either by contract or within the department and shall be completed prior to any review required by federal regulation of the temporary assistance standard of need and temporary assistance grant payments.

(2) The maximum grants for the temporary assistance program, expressed as a percentage of the standard of need, shall be established either in the annual appropriations act or by public necessity rule or regulation. Notwithstanding any provision of this section or other law to the contrary, the standard of need for each assistance group size, which was established

and funded at four hundred twenty-six dollars (\$426) for an assistance group of three (3) persons for the fiscal year 1992-1993, shall, from July 1, 1993 to June 30, 1994, remain at the same level and shall remain at the same levels established for other assistance group sizes, which were established and funded during fiscal year 1992-1993. Beginning July 1, 1994, through June 30, 1995, the standard of need for each assistance group size shall be set at five hundred dollars (\$500) for an assistance group size of three (3) persons, and shall be set accordingly for other assistance group sizes. Beginning July 1, 1995, the standard of need for each assistance group size shall be set at five hundred eighty-three dollars (\$583) for an assistance group size of three (3) persons, and shall be set accordingly for other assistance group sizes, and these standards shall remain in effect.

(g) In determining eligibility under Section 5 the department shall adopt rules and regulations which use the standard of need less any exemption provided by subsection (d) to determine eligibility for amounts of grants. Such rules and regulations shall be adopted in a manner in which the maximum amount of child support and other income may be provided to the family and children without loss of grant and medicaid benefits.

SECTION 7. (a) The records of the department concerning the application for and receipt of temporary assistance provided by the department pursuant to this part shall be confidential and not available for public inspection by any person or for use in judicial or administrative proceedings or law enforcement activities, except as provided in this section, and where not otherwise directly contrary to federal regulations.

(b) The department is specifically authorized to utilize or disclose the records of any applicant, recipient, or member of a family or household which receives temporary assistance for any purposes which it determines will:

(1) Assist in the more efficient delivery of services to the applicant, recipient, or member of a family or household;

(2) Result in the more efficient administration of the program of temporary assistance or child support enforcement;

(3) Aid the prevention of fraud in the temporary assistance program or any other state or federal economic assistance program;

(4) Aid in the determination of eligibility for the temporary assistance program or any other state or federal assistance or service program;

(5) Be necessary to protect any minor child from abuse, neglect, or exploitation, or which will protect from abuse, neglect, or exploitation any adult who is receiving services from the department pursuant to §§71-6-101 et seq.

(c)(1) The records of the department concerning the temporary assistance program may be subject to a subpoena duces tecum issued by a judicial or administrative tribunal or body; provided, however, except as necessary for use in an administrative proceeding, and appeal therefrom, to determine eligibility for temporary assistance pursuant this part or for any other program administered by the department, any records of the department's temporary assistance program which may be subpoenaed for use in any civil judicial or other administrative proceeding must have a protective order issued by the court or administrative law judge or hearing officer to prevent further disclosure beyond the necessary use by the tribunal and the parties for the conduct of the proceedings.

(2) The department may comply with such subpoena issued by a state or local judicial or administrative tribunal or body by sending copies of pertinent portions of the record requested, or by sending an abstract of the pertinent information from its computer records, in a sealed envelope addressed to the court or administrative body or the person taking a deposition, together with an affidavit of an authorized agent of the department attesting to the authenticity of the record, unless the court or administrative body, for good cause shown, enters an order in the record requiring the attendance of a department employee at the proceeding.

(d) The department may release the current address of any recipient of temporary assistance from the temporary assistance records to a federal, state, or local law enforcement officer upon the officer's request if the officer provides the department with the recipient's name and notifies the department:

(1) That the recipient is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the recipient flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the recipient flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state;

(2) The recipient is violating a condition of probation or parole imposed under federal or state law; or

(3) The recipient has information that is necessary for the officer to conduct the official duties of the officer; and

(4) The location or apprehension of the recipient is within the official duties of the officer.

(e) Any portions of records of the temporary assistance program maintained by the department or which may have been released to its agents or contractors pursuant to this section and which records contain any information which was obtained from the child support program conducted by the department under Title IV-D of the Social Security Act, shall be subject to the restrictions and protections of state and federal law or regulations governing the operation of that program and the portions of the records of the temporary assistance program shall be released or subject to subpoena or court order only as permitted by the laws and regulations governing that program.

(f) A violation of the provisions restricting the disclosure of information pursuant to this section shall be a Class C misdemeanor.

SECTION 8. (a) The department of human services shall establish and operate a program of child support enforcement pursuant to the requirements of Title IV-D of the Social Security Act as a means of reducing welfare dependency in the state of Tennessee.

(b) The department may operate the child support enforcement program by use of its staff or by contract with the district attorneys general of the state, with the juvenile courts of the state, or with any private person, company, law firm, or corporation, which persons or entities shall be deemed to be the child support agency for their respective district.

(c) All departments and agencies of the state shall cooperate with the department of human services in carrying out the child support program.

(d)(1) The records of the department or its contractors or agents concerning the application for and receipt of paternity establishment and child support services provided by the department its contractors or agents pursuant to this part and any information which is otherwise required by federal law to be held by the department in a confidential manner, shall be confidential and not available for public inspection by any person or for use in judicial or administrative proceedings or for law enforcement activities, except as provided in this section, and where not otherwise directly contrary to federal regulations.

(2) The department is specifically authorized to utilize or disclose the records of any applicant, recipient, or member of a family or household which receives child support services for any purposes which it determines will:

(A) Assist in the more efficient delivery of child support services to the applicant or recipient or beneficiary of such services or which are necessary in its litigation or administrative determinations involving the establishment of paternity or the establishment, enforcement, or review or modification of child support or child support orders;

(B) Result in the more efficient administration of the program of paternity establishment or child support enforcement or temporary assistance;

(C) Aid the prevention of fraud in the child support program or the temporary assistance program or any other state or federal child support or economic assistance program;

(D) Aid in the determination of eligibility for the child support program or the temporary assistance program or any other state or federal assistance or service program;

(E) Be necessary to protect any minor child from abuse, neglect, or exploitation, or which will protect from abuse, neglect, or exploitation any adult who is receiving services from the department pursuant to §§71-6-101 et seq.

(3) Notwithstanding the foregoing provisions of subdivision (2), no information shall be disclosed from the child support records maintained by the department, its contractors or agents when:

(A) A protective order has been entered against one party and the release of information from such record would disclose the whereabouts of the party for whose benefit the protective order was entered;

(B) If the department, its contractors or agents have reason to believe that the release of information concerning the whereabouts of one party to another party may result in physical or emotional harm to the former party.

(4) Notwithstanding the provisions of subdivision (2), when any information regarding a consumer report from a consumer reporting agency is obtained by the department, its contractors or agents, such information will be kept confidential and will be used solely for the purposes of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments and such report shall be confidential and will not be available by subpoena or otherwise for any civil, administrative, or criminal proceeding except for the purpose of the establishment, enforcement and modification of child support obligations.

(5) Notwithstanding the provisions of subdivision (2), any financial information obtained from a financial institution by the department, its contractors or agents regarding an individual for whom child support establishment, enforcement or modification is being conducted shall be confidential and will not be available by subpoena or otherwise for any civil, administrative, or criminal proceeding and shall be disclosed only for the purpose of, and to the extent necessary, in establishing, enforcing or modifying a child support obligation of such individual.

(6)(A) Except as provided in subdivisions (3), (4) and (5), the records of the department concerning the child support program may be subject to a subpoena duces tecum issued by a judicial or administrative tribunal or body; provided, however, except as necessary for use in a judicial proceeding or an administrative proceeding concerning a child support matter in which such records must be disclosed, and for any appeal therefrom, any records of the child support

program which may be subpoenaed for use in any civil judicial or other administrative proceeding must have a protective order issued by the court or administrative law judge or hearing officer to prevent further disclosure beyond the necessary use by the tribunal and the parties for the conduct of the proceedings.

(B) The department may comply with such subpoena issued by a state or local judicial or administrative tribunal or body by sending copies of pertinent portions of the record requested, or by sending an abstract of the pertinent information from its computer records, in a sealed envelope addressed to the court or administrative body or the person taking a deposition, together with an affidavit of an authorized agent of the department attesting to the authenticity of the record, unless the court or administrative body, for good cause shown, enters an order in the record requiring the attendance of a department employee at the proceeding.

(7) Except as provided in subdivisions (4) and (5), the department may release the current address of any person from its Title IV-D records to a federal, state, or local law enforcement officer upon the officer's request if the officer provides the department with the person's name and notifies the department:

(A) That the person is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of such state;

(B) The person is violating a condition of probation or parole imposed under Federal or State law; or

(C) The person has information that is necessary for the officer to conduct the official duties of the officer; and

(D) The location or apprehension of the person is within the official duties of the officer.

(8) A violation of the provisions restricting the disclosure of information pursuant to this section shall be a Class C misdemeanor.



SECTION 9. (a)(1) Each applicant or recipient who receives or authorizes payment of temporary assistance pursuant to this part or Titles IV-A or IV-E of the Social Security Act shall be deemed to have assigned to the state any rights to support from any other person such applicant or recipient may have:

(A) In his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid; and

(B) Which have accrued at the time such assignment is executed.

(2) Each payment shall constitute "receipt" for purposes of determining when the assignment is executed.

(3) During the terms of such assignment, the department shall be subrogated to the rights of the child or children or the person having custody to collect and receive all child support payments.

(4) The department shall have the right to initiate any support action in its own name or in the name of the recipient under existing laws of this state and to recover any payments ordered by the courts of this or any other state.

(5) In the exercise of its subrogation rights, the department shall give the person having custody prior notice of any action taken to enforce or modify support and shall inform the custodian of the right to intervene to protect any future interest; provided, however, failure to provide such notice shall not be a defense to the obligor in any proceeding.

(b) The department shall certify to the clerks of the appropriate state courts that an assignment of any and all rights, title and interest in support rights has been made to this state by a temporary assistance recipient of this state. The department may also, in its discretion, certify to the clerk of the appropriate court in this state that a recipient of public assistance in another state has assigned support rights to that state pursuant to federal law. Upon receipt of this certification, the clerks of the appropriate state courts shall transmit support payments that they receive on behalf of such assistance recipient. The clerk shall transmit the amount directly to the agency specified by the department in accordance with § 36-5-101(a)(4). The clerks are

to identify these payments by the names of the parties involved in the cause of action and by the docket number of the cause of action. These support payments shall be transmitted to the department or the specified agency continuously until the department notifies the clerks of the appropriate state courts that it is no longer necessary to do so. The department of human services shall send to each recipient notice of payments received in their behalf quarterly.

(c) Upon the filing of an application by an individual not otherwise eligible for support services under this section, the department may initiate support actions for an individual, in accordance with the provisions of title IV-D of the Social Security Act, as amended.

(d) The provision of services under a child support enforcement program which includes services by an attorney or his representative employed by, under contract to, or representing the department shall not create an attorney-client relationship with any party other than the state. Attorneys employed by or under contract to the department shall have an affirmative duty to notify individuals applying for child support services or temporary assistance recipients whose rights to support have been assigned, who contact or are contacted by the attorney or other child support enforcement program staff that any legal services provided by the child support enforcement program are solely on behalf of the state and that no incidents of the lawyer-client relationship, including the confidentiality of lawyer-client communications, exist between the attorney and the applicant or recipient. No such duty shall exist when the applicant for services is another governmental agency acting on behalf of an individual and there is no direct contact between the child support enforcement program and the individual seeking support.

SECTION 10. (a) All payments made by the department to a spouse, child, or family under any program under this part or under any other title shall be recoverable against the spouse failing to provide support or the non-custodial parent as a debt due to the state.

(b) The spouse failing to support or the non-custodial parent shall be liable for all court costs and the costs to the state for attorneys employed by the state or contracted by the state to prosecute such action.

(c) If the spouse failing to provide support or the non-custodial parent has left the state, then the secretary of state shall be the lawful agent for such spouse or parent and service of process shall be made by serving a copy of the complaint and the summons upon the secretary of state and such service shall be sufficient service upon such spouse or parent; provided, however, that notice of such service, a copy of the complaint and the summons shall also be sent by certified mail, return receipt requested to the last known out-of-state address of the spouse or parent.

(d) All property of the spouse failing to provide support or the non-custodial parent within the state shall be subject to execution for payment of any judgment against such spouse or parent.

SECTION 11. Temporary assistance paid pursuant to this part shall not be transferable or assignable at law or in equity, and none of the assistance paid pursuant to this part shall be subject to levy, execution, attachment, garnishment, or other legal process.

SECTION 12. Whoever knowingly obtains, or attempts to obtain, or aids, or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation, or by other fraudulent device, or by fraudulent misuse of any check, electronic system, machine, card, or cash distribution device or other method approved by the commissioner used to distribute assistance pursuant to this part or pursuant to Title IV of the Social Security Act, temporary assistance for a family or child to which family or child is not entitled, or who, by such means, obtains temporary assistance greater than that to which such family or child is entitled, commits a Class E felony.

SECTION 13. Notwithstanding any law to the contrary, the commissioner of finance and administration, from funds appropriated or otherwise made available to the department of human services in any account funding programs or services for temporary assistance shall establish a reserve fund to support temporary assistance, or any successor programs; provided, however, for the fiscal year beginning July 1, 1996, the reserve fund shall not exceed fifteen million dollars (\$15,000,000). Funds available in such accounts at the end of any fiscal year

shall not revert to the general fund, but shall be placed in the reserve fund established by this section.

SECTION 14. (a) The department shall administer the “Families First” program established by this part.

(b) The commissioner shall have authority to organize the department in any manner necessary as permitted by law, to establish any necessary county or district or regional offices and to appoint area and district managers and directors in those offices or in the department’s state office, and to establish any necessary internal policies and procedures for the proper administration of the Families First program and for the provision of temporary assistance, child support, jobs programs, and other related support services.

(c) The department shall administer the program of economic assistance to families under Titles IV-A, IV-D, and IV-F of the Social Security Act or related federal laws or regulations as they may continue to exist pursuant to federal statutes and regulations on or after the effective date of this act and as such program statutes and regulations may be amended, or pursuant to any waivers that are granted by the federal government from those regulations as result of the enactment of this legislation.

(d)(1) The department shall have rulemaking authority to establish any necessary rules for the administration of this part and shall have rulemaking authority to establish any rules to carry out the requirements of any title or part of any title which the department administers and which are necessary to immediately implement the provisions of this part to effect any federal legislative changes.

(2) Notwithstanding any law to the contrary, the department shall have authority upon passage of this act to promulgate any public necessity rules, to become effective upon the effective date of this act, when the department determines such rules are necessary to implement the provisions of this part on the effective date of the act, and shall have rulemaking authority to establish upon passage of this act any public necessity rules, to become effective upon the effective date of this act, in any other title or part of any title which the department

administers which are necessary to implement this part; provided, however, that the department shall promulgate permanent rules pursuant to a rulemaking hearing as required by §§ 4-5-201 et seq.

(e) The department shall establish by rule the procedures for provision of notice of the eligibility determination to the applicant or recipient and any appeal procedures necessary to meet due process requirements which may be applicable to such determination.

(f) All other agencies of the state of Tennessee shall cooperate with the department in any manner necessary for the administration of this part.

SECTION 15. (a) The commissioner of human services is authorized, pursuant to the requirements of subsections (b) and (c) to immediately implement changes necessary as a result of federal legislation designed to reform welfare programs which are, or may be in the future, administered by the department of human services or other appropriate state agencies.

(b) It is the intent of the general assembly that any modifications to the state's welfare programs be implemented which are required by federal law or which are financially in the best interests of the state or which are necessary for the implementation of such changes.

Notwithstanding any other state law to the contrary, the department shall, therefore, have the authority to immediately implement any federal legislative changes by public necessity rules; provided, however, that permanent rules shall be promulgated pursuant to the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2.

(c) For purposes of this section, "welfare program" is defined as any federal or state means-tested program administered by the department of human services, or any child support enforcement program administered by the department of human services pursuant to Title IV-D of the Social Security Act, the Carl D. Perkins Vocational and Applied Technology Act authorized by P.L. 101-392, and the Adult Education Act, authorized by P.L. 100-297, as amended by the National Literacy Act of 1991, P.L. 102-73.

(d)(1) The commissioner of human services is authorized to seek and to implement waivers to carry out the provisions of this act to the extent permitted by federal authorities.

(2) If waivers which are necessary to implement any or all of the provisions of this act cannot be obtained, or for those counties which may be required by the federal authorities for the evaluation of any waivers granted by the federal government, the department shall continue to administer, pursuant to the requirements of federal statutes and regulations, the programs of economic assistance to families and children under Titles IV-A, D, and F of the Social Security Act as they may continue to exist on or after the effective date of this act to the extent the provisions of this act cannot be implemented by waivers or to the extent that it may be necessary to continue the operation of those programs for the evaluation of the waivers granted by the federal government. The department shall, notwithstanding any law to the contrary, have authority to implement any rules by public necessity rule which are necessary to maintain compliance with any federal law or to maintain federal funding, or to comply with any federal regulation which has not been waived or to comply with any waiver requirements. Provided, however, that the department shall promulgate permanent rules pursuant to a rulemaking hearing as required by §§ 4-5-201 et seq.

SECTION 16. Notwithstanding the provisions of this act, the commissioner of human services is authorized to establish demonstration projects or pilot projects in such county or counties as the commissioner may deem appropriate in order to test additional or innovative efforts to improve the economic and social circumstances of families in need.

SECTION 17. The commissioner of human services shall have authority to establish a system for distribution of any benefits provided by this part, or under the continued provisions of federal law and regulations as provided under Section 15, by means of an electronic benefits transfer system or by such other means as the commissioner shall determine is appropriate.

SECTION 18. Tennessee Code Annotated, Section 71-5-303, is amended by deleting subsections (2), (4) and (7) in their entireties and by substituting instead the following language as appropriately designated subsections and by designating the remaining subsections accordingly:

( ) “Area manager” means the director or manager of the county or area office of the department of human services.

( ) “Assistance” or “food assistance” means food stamp coupons, free food stamps, or food purchase assistance which is issued or transferred by means of food coupons, food stamps, electronic benefits transfer processes or other means as determined by the department to an eligible household or low-income family pursuant to this part.

( ) “Food coupons” or “food stamps” means obligations of the United States government issued or transferred by means of food coupons or food stamps to enable the purchase of food for the eligible household.

SECTION 19. Tennessee Code Annotated, Title 71, Chapter 5, Part 3, is amended by deleting the words “county manager” wherever they appear and by substituting instead the words “area manager”.

SECTION 20. Tennessee Code Annotated, Section 71-5-303, is amended by adding the following as new appropriately designated subsections:

( ) (A) “Food stamp program(s)” shall include the program which enables persons determined eligible for the provision of assistance by the governments of the United States or the state of Tennessee pursuant to this part, to purchase foodstuffs and includes, food coupons, food stamps, electronic benefits transfer processes, or other means as may be approved for this purpose by the department.

(B) The commissioner of human services shall have authority to establish a system for distribution of any benefits provided by this part by means of an electronic benefits transfer system or by such other means as the commissioner shall determine is appropriate.

SECTION 21. Tennessee Code Annotated, Section 71-5-304(5) and (6), are amended by deleting the words “food stamps” wherever they appear, and by substituting instead the words and punctuation, “food coupons, food stamps or food purchase benefits transferred electronically or by other means”.

SECTION 22. Tennessee Code Annotated, Section 71-5-306, is amended by deleting the words “bonus coupons and free food stamps” and by substituting instead the words and punctuation “food coupons, food stamps, or food purchase benefits transferred electronically or by other means”.

SECTION 23. Tennessee Code Annotated, Section 71-5-314, is amended by deleting subsections (a), (b) and (c) in their entireties and by substituting instead the following language:

(a)(1) Whoever knowingly obtains, or attempts to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation or by impersonation, or in any manner not authorized by this part or the regulations issued pursuant thereto, any food coupons, food stamps, electronic food purchase benefits or assistance provided under this part by any other means as determined by the department, to which such person is not entitled or of a greater value than that to which such person is justly entitled, if such food coupons, food stamps, electronic benefits or assistance provided under this part by any other means as determined by the department are of the value of one hundred dollars (\$100) or more, commits a Class E felony and upon conviction thereof, shall be sentenced for such offense as provided by law, or shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both.

(2) If the assistance is of a value less than one hundred dollars (\$100), such person commits a Class A misdemeanor and shall be sentenced or fined, or both, as provided by law.

(3) In addition to or in lieu of any of the foregoing penalties, the court may order that such person be disqualified from participation in the food assistance program for six (6) months for the first offense, twelve (12) months for the second offense, and permanently for the third offense. Suspension of any adult’s eligibility for assistance under this part shall not operate to disqualify or suspend the eligibility of an innocent adult or child of the suspended person’s family.



(4) The department shall enclose a copy of the penalties provided in this law one (1) time, in notice form, to each recipient of assistance pursuant to this part and post a notice to such effect in noticeable places in each of its assistance offices.

(b)(1) Whoever presents, or causes to be presented for payment or redemption any food coupons or food stamps, or any card, device or other thing issued in the form of electronic benefits or by any other such means as determined by the department which may be used to obtain assistance pursuant to this part, knowing such food coupons, food stamps, card, device, other thing or any other means for the purchase of food pursuant to this part, to have been received, transferred, or used in any manner in violation of the provisions of this part or the regulations issued pursuant to this part, the value of which is one hundred dollars (\$100) or more, commits a Class E felony and, upon conviction thereof, shall be sentenced for such offense as provided by law, or shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both.

(2) If the assistance is of a value less than one hundred dollars (\$100), such person commits a Class A misdemeanor and shall be sentenced or fined, or both, as provided by law.

(3) In addition to or in lieu of any of the foregoing penalties, the court may order that such person be disqualified from participation in the food assistance program for six (6) months for the first offense, twelve (12) months for the second offense, and permanently for the third offense. Suspension of any adult's eligibility for assistance under this part shall not operate to disqualify or suspend the eligibility of an innocent adult or child of the suspended person's family.

(4) The department shall enclose a copy of the penalties provided in this law one (1) time, in notice form, to each recipient of assistance pursuant to this part and post a notice to such effect in noticeable places in each of its assistance offices.

(c)(1) Whoever knowingly transfers, exchanges, sells, or otherwise uses, or aids or abets any person to transfer, exchange, sell, or otherwise use any food coupons, food stamps or electronic benefits cards or debit cards, devices or things, or other such means as are

approved by the department which may be used to obtain assistance pursuant to this part, in any manner not authorized by this part or the regulations issued pursuant thereto, and whoever receives such food coupons, food stamps, or electronic transfer benefits or debit cards, devices or things used to obtain assistance pursuant to this part, knowing them to have been transferred, exchanged, sold or otherwise used in any manner not authorized by this part or regulations issued pursuant thereto, and if such food coupons, food stamps, or electronically transferred benefits or other such benefits as may be approved by the department obtained are of value of one hundred dollars (\$100) or more, commits a Class E felony, and, upon conviction thereof, shall be sentenced as provided by law, or shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000), or both.

(2) If the assistance is of a value of less than one hundred dollars (\$100), such person commits a Class A misdemeanor, and shall be sentenced or fined, or both, as provided by law.

(3) In addition to or in lieu of any of the foregoing penalties, the court may order that such person be disqualified from participation in the food assistance program for six (6) months for the first offense, twelve (12) months for the second offense, and permanently for the third offense. Suspension of any adult's eligibility for assistance under this part shall not operate to disqualify or suspend the eligibility of an innocent adult or child of the suspended person's family.

(4) The department shall enclose a copy of the penalties provided in this law one (1) time, in notice form, to each recipient of assistance pursuant to this part and post a notice to such effect in noticeable places in each of its assistance offices.

SECTION 24. Tennessee Code Annotated, Section 71-5-314(d), is amended by deleting the word "coupons" and by substituting instead the word "assistance".

SECTION 25. Tennessee Code Annotated, Section 71-5-133, is amended by adding the words and punctuation "or to recipients of any successor program," after the words "aid to families with dependent children recipients" in subsection (a) and after the words "aid to families with dependent children program" in subsection (b).

Section 71-1-133 is further amended by deleting the words “food stamps” wherever they appear and by substituting instead the words “food assistance pursuant to title 71, chapter 5, part 3”.

SECTION 26. Tennessee Code Annotated, Section 13-28-103(4)(B), is amended by adding the words and punctuation “or any successor program,” after the words “aid to families with dependent children,” and by deleting the words “food stamps” and by substituting instead the words “food assistance pursuant to title 71, chapter 5, part 3”.

SECTION 27. Tennessee Code Annotated, Section 67-6-337, is amended by deleting the section in its entirety and by substituting instead the following language:

There are exempt from the tax imposed by this chapter all sales for which the consideration given is food stamps, food coupons, or for which an electronic debit card or other electronic benefits transfer system is used or which utilizes such other means as the department of human services may approve, and which cards, systems or other means may be issued, authorized or used by the department of human services or the federal government, their agents or contractors to assist persons, on a means-tested basis, to purchase eligible food products in accordance with the laws and regulations issued by the federal government pursuant to the Food Stamp Act of 1964, 7 U.S.C. § 2011 et seq. or the department of human services pursuant to title 71, chapter 5, part 3 or in accordance with any other current enabling legislation or subsequent enabling legislation or regulations authorizing issuance of food coupons, food stamps or the use of any electronics benefits transfer process, including, but not limited to, the use of any electronic debit card system or other such system as the department of human services may approve. If any other consideration other than that provided for in the preceding sentence is used in any sale, that portion of such sale shall be fully taxable.

SECTION 28. Tennessee Code Annotated, Section 71-3-128, is transferred to an appropriately designated section in title 36, chapter 5, part 1.

SECTION 29. Tennessee Code Annotated, Section 71-3-129, is transferred to an appropriately designated section in title 71, chapter 1, part 1.

SECTION 30. Tennessee Code Annotated, Section 71-1-114, is amended by adding the words and punctuation “,or any successor program,” after the words “aid to dependent children” in the first sentence.

SECTION 31. Tennessee Code Annotated, Section 71-1-117, is repealed.

SECTION 32. Tennessee Code Annotated, Section 71-1-118, is repealed.

SECTION 33. Tennessee Code Annotated, Section 71-1-121, is amended by adding the words and punctuation “or any successor program,” after the acronym “AFDC,”.

Section 71-1-121 is further amended by deleting the word “food stamps” and by substituting instead the words “food assistance pursuant to title 71, chapter 5, part 3”.

SECTION 34. Tennessee Code Annotated, Section 71-1-127, is repealed.

SECTION 35. Tennessee Code Annotated, Section 71-1-128, is repealed.

SECTION 36. Tennessee Code Annotated, Title 71, Chapter 3, Part 2, is repealed.

SECTION 37. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 38. This act shall take effect upon becoming a law for the purpose of promulgating rules, and it shall take effect on July 1, 1996 for all other purposes, the public welfare requiring it.

AN ACT to amend Tennessee Code Annotated, Section 13-28-103(4)(B); Section 67-6-667 and Title 71, relative to economic assistance to families by modification of the aid to families with dependent children, child support and food stamp programs.

AN ACT to amend Tennessee Code Annotated, Section 13-28-103(4)(B); Section 67-6-667 and Title 71, relative to economic assistance to families by modification of the aid to families with dependent children, child support and food stamp programs.

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economic assistance to families by modification of the aid to families with dependent children, child support and food stamp programs.

AN ACT to amend Tennessee Code Annotated, Section 13-28-103(4)(B); Section 67-6-667 and Title 71, relative to economic assistance to families by modification of the aid to families with dependent children, child support and food stamp programs.